

Opinion
No. 1211

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

NOV 5 1982

CLYDE E. BROOKS, and
VIRGINIA H. BROOKS,

Petitioners,

v.

DISTRICT OF COLUMBIA,

Respondent.

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Tax Docket Nos. 3101-82
and 3102-82

FILED

FINDINGS OF FACT AND CONCLUSIONS
OF LAW

In these actions petitioners appealed their 1982 real property residential tax assessments. The cases were heard by this court on October 19, 1982. Based upon the pleadings, exhibits, witnesses and arguments of the petitioner and counsel for the District of Columbia, the Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Petitioners Clyde E. Brooks and Virginia H. Brooks challenge the 1982 real property tax assessments on two residential rental properties which they own in the District of Columbia:

Lot 81, Square 990 located at

217 12th St., S.E.; and

Lot 23, Square 866, located at

606 Constitution Ave., N.E.

2. Lot 81, Square 990 consists of 1,203 square feet of land; the improvements consist of a two-story with basement non-renovated shell which petitioner rents to others.

3. Lot 23, Square 866, consists of 1,239 square feet of land; the improvements consist of a two-story with basement renovated single-family residential dwelling which petitioner rents to others.

4. The tax year 1982 real property tax assessment on Lot 81, Square 990 was \$70,000.00, consisting of \$41,251.00 for the land and \$28,749.00 for the building. The Board of Equalization and Review sustained this assessment. The 1982 taxes which petitioner seeks refunded are \$1,078.00.

5. The tax year 1982 real property tax assessment on Lot 23, Square 866 was \$153,164.00, consisting of \$51,964.00 for the land and \$101,200.00 for the building. The Board of Equalization and Review sustained this assessment. The 1982 taxes which petitioner seeks refunded are \$2,358.72.

6. Both properties were taxed at the residential tax rate of \$1.54 per \$100.00 of assessed valuation* rather than the tax rate of \$2.13 per \$100.00 of assessed valuation used for commercial property.

7. Petitioners contended in both cases that the subject properties were overvalued; that the land value, in particular was excessive; and that the correct method of valuing these properties, since they were residential rental properties was the income approach

*Single-family residential real property not owner-occupied is taxed at a rate of \$1.54 instead of \$1.22 per \$100.00 of assessed valuation.

to value. A subsidiary issue in Tax Docket No. 3101-82, Lot 81, Square 990, was whether the proper "use code category" under which the property was assessed was the appropriate use code.

8. Petitioners were not able to cite any authority and provided no expert testimony that their approach to value was the proper one. Moreover, petitioners were unaware of any comparable sales in the vicinities of the subject properties.

9. The District of Columbia contended that the assessments on petitioners' properties were not excessive, that the proper approach to value for single-family residential properties, rental or otherwise, in the District of Columbia is the market data (comparable sales) approach to value; and that although the use code category of "24" (renovated property) was on petitioners' Notice of Property Assessment for Lot 81, Square 990, the District, in fact, assessed this property under the proper use code category of "11" (a shell) in this case.

10. In support of its contentions, the District presented ample evidence from two assessors of sales in the vicinities of the subject properties comparable to the challenged assessments. Moreover, a third assessor testified that in his extensive experience, the market data approach was the proper approach and that petitioners' approach was arbitrary and not useful in light of prevailing market (sales) conditions.

CONCLUSIONS OF LAW

Petitioners have failed to meet their burden of proof that their land value was excessive, or that they could properly choose an individual method of valuation for their properties. Further, testimony brought out during the trial supported the "use code category" used by the District to assess Lot 81, Square 990. Although the Notice of Assessment for Lot 81, Square 990 listed the use code category as "24" (renovated property) the assessor assessed the property under the use code category "11", that is, as the shell which the property actually is. The appropriate numerical change has been made by the District of Columbia.

D.C. Code, 1981 ed., §§820 et seq., grant the Department of Finance and Revenue through the Mayor, the authority to exercise discretion as to the factors which will have a bearing on the market value of real property in the District. The District of Columbia presented substantial evidence that the Department of Finance and Revenue consistently used the market data (comparable sales) approach to value when ascertaining the value of residential real property, rental or otherwise, in the District of Columbia. This approach was the best indicator of the fair market value of such properties. Petitioners, on the other hand, presented no exceptions to the statutes which would give them the power to individually choose the method which they thought would be the best indicator of market value for their properties.

Lastly, petitioners failed to prove by a preponderance of the evidence that their properties,

land or improvements, had been overvalued by the District of Columbia.

This Court concludes, therefore, that Lot 81, Square 990, was assessed under the appropriate use code category, that the proper approach to value was utilized in both cases -- the market data (comparable sales) approach, and that petitioners' properties, including the improvements and the land, were not overvalued for tax year 1982.

Date:

Nov 4, 1982

Salmon A. Burns
JUDGE

TAX DIVISION

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ORDER

Upon consideration of the findings of fact and
conclusions of law entered this date, it is this 1/18
day of November, 1982,

ORDERED, that the values appealed from on Lot 81
in Square 990 and Lot 23 in Square 866 in the District
of Columbia be and the same hereby are sustained; and it
is further

ORDERED, that judgment be and the same hereby is
entered for respondent District of Columbia.



JUDGE

Copies Served:

Clyde E. Brooks
500 Independence Avenue, Southeast
Washington, D. C. 20003

Urenthia M. Power, Esquire
Assistant Corporation Counsel, D. C.

Ms. Carolyn Smith
Finance Officer, D. C.

R. Starfield
11/8/82